

MATERIAL TRANSFER AGREEMENT

(for material owned by Rush)

[Date]

[Address]

Re: Rush Docket No. ["Title of Materials/Inventor Name(s)"] - Agreement for Use of Certain Biological Material

Dear [Name]:

This Letter Agreement, effective when signed on behalf of [Company Name] ("Recipient"), governs an arrangement in which [Inventor Name(s)] of Rush-Presbyterian-St. Luke's Medical Center ("Rush") make(s) available the Biological Material described in Paragraph 1 below to Recipient. Recipient will hold the Biological Material in trust solely for the purposes set forth in this Letter Agreement.

1. The Biological Material to be furnished consists of the following: [Description], which resulted from research at Rush.
2. Rush will retain the unrestricted right to distribute the Biological Material to other commercial or noncommercial entities. This letter in no way alters any rights the U.S. Government may have in the Biological Material.
3. Recipient will only use the Biological Material for *in vitro* scientific research and/or evaluation. This Agreement specifically excludes any use of the Biological Material or any modified or unmodified derivative, analog or unmodified progeny of the Biological Material ("Derivative") in human subjects, in clinical trials or for diagnostic purposes involving human subjects. The Recipient acknowledges that the Biological Material may be the subject of a patent application or other intellectual property protection. Nothing in this Letter Agreement grants Recipient any rights under any patents nor any rights to use any products or processes derived from or with Biological Material for profit-making or commercial purposes, including demonstration purposes. Recipient explicitly agrees that it shall not apply or file for any intellectual property protection, including without limitation, patent protection in any jurisdiction, incorporating any Biological Material, Derivative or any new creation, development or discovery of new substance or application from use of the Biological Material ("Invention") without express written permission of Rush. Recipient agrees to negotiate in good faith a license with Rush before making any profit-making or commercial use of any Biological Material, Derivative or Invention. Rush has no obligation to grant a license to Recipient, and may grant exclusive or nonexclusive licenses in

the Biological Material to others who may be investigating uses of the Biological Material.

4. Recipient will have [Number] months from the effective date of this Letter Agreement to evaluate the Biological Material. At the end of that period, Recipient will either enter into good faith negotiations with Rush for a commercial license should one still be available at that time, or else destroy the Biological Material within thirty (30) days.
5. Either party may terminate this Letter Agreement at any time. Recipient will discontinue all use of and return or destroy the Biological Material within thirty days of termination.
6. RECIPIENT UNDERSTANDS THAT THE BIOLOGICAL MATERIAL IS EXPERIMENTAL IN NATURE AND IS PROVIDED WITHOUT A WARRANTY OR MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, AND RUSH MAKES NO REPRESENTATIONS AND EXTENDS NO WARRANTIES OF ANY KIND, EXPRESS OR IMPLIED. RUSH MAKES NO REPRESENTATION THAT USE OF THE BIOLOGICAL MATERIAL WILL NOT INFRINGE ANY PATENT OR OTHER PROPRIETARY RIGHT OF ANY THIRD PARTY. IN NO EVENT SHALL RUSH BE LIABLE FOR RECIPIENT'S ACCEPTANCE, USE, STORAGE OR DISPOSAL OF SUCH BIOLOGICAL MATERIAL, AND RECIPIENT AGREES TO DEFEND, INDEMNIFY, AND HOLD RUSH HARMLESS FROM ANY LOSS, CLAIM, DAMAGE, OR LIABILITY, OF WHATSOEVER KIND OR NATURE, WHICH MAY ARISE FROM SUCH ACCEPTANCE, USE, STORAGE OR DISPOSAL.
7. Recipient will not transfer the Biological Material to any third party, and will direct any third party requests to Rush. Recipient agrees that the Biological Material, information concerning the Biological Material and all characteristics of the Biological Material, shall be held in confidence by the Recipient ("Confidential Information"). All Confidential Information shall remain confidential unless or until: (i) such Confidential Information was known to the Recipient at the time it was received or subsequently developed independently without reliance on the Confidential Information, (ii) such Confidential Information was publicly known or becomes publicly known through no fault of the Recipient, or (iii) such Confidential Information is made known to the Recipient by a third party who does not impose any obligation in confidence.
8. Paragraphs 3, 6, and 7 will survive the termination or expiration of this Letter Agreement, which may be amended only by a written and fully-signed subsequent agreement between the parties.

9. Recipient certifies that all experiments utilizing the Biological Material will be carried out within the appropriate regulatory guidelines which govern the use of the Biological Material within the appropriate local, state and national jurisdictions.

10. In support and recognition of the expenses incurred by Rush for the maintenance, preparation and shipment of the Biological Material, Recipient shall make a payment of \$500 to Rush. Upon receipt of the payment, the Biological Material shall be shipped to Recipient, Recipient and Rush agree that no further payments shall be required unless Recipient chooses to license the Biological Material, Derivative and/or Invention from Rush as may be necessary under Paragraph 3 or 4 above.

Sincerely,

[Name]
[Title]

<p>RUSH-PRESBYTERIAN-ST. LUKE'S MEDICAL CENTER</p> <p>Signature _____</p> <p>Name <u>Donna J. Knuth, MBA</u></p> <p>Title <u>Director, Sponsored Research Projects</u></p> <p>Date _____</p>	<p>RECIPIENT</p> <p>Signature _____</p> <p>Name _____</p> <p>Title _____</p> <p>Date _____</p>
---	---